

California Code of Regulations
TITLE 22. SOCIAL SECURITY
DIVISION 9. PREHOSPITAL EMERGENCY MEDICAL SERVICES
CHAPTER 5. PROCESS FOR APPLICANT VERIFICATION

§ 100190 Limitations on Paramedic Licenses for Aliens.

(a) All eligibility requirements contained herein shall be applied without regard to the race, creed, color, gender, religion, or national origin of the individual applying for the public benefit.

(b) Pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (Pub. L. No. 104-193 (PRWORA)), (8 U.S.C. § 1621), and notwithstanding any other provision of this division, aliens who are not qualified aliens, nonimmigrant aliens under the Immigration and Nationality Act (INA) (8 U.S.C. Section 1101 et seq.), or aliens paroled into the United States under Section 212(d) (5) of the INA (8 U.S.C. § 1182(d) (5)), for less than one year, are not eligible to receive a California paramedic license as set forth in Section 1797.172 of Division 2.5 of the Health and Safety Code, except as provided in 8 U.S.C. 1621 (c)(2).

(c) A qualified alien is an alien who, at the time he or she applies for, receives, or attempts to receive a public benefit, is, under Section 431(b) and (c) of the PWRORA (8 U.S.C. § 1641(b) and (c)), any of the following:

(1) An alien who is lawfully admitted for permanent residence under the INA (8 U.S.C. § 1101 et seq.).

(2) An alien who is granted asylum under Section 208 in the INA (8 U.S.C. § 1158).

(3) A refugee who is admitted to the United States under Section 207 of the INA (8 U.S.C. § 1157).

(4) An alien who is paroled into the United States under Section 212(d) (5) of the INA (8 U.S.C. § 1182 (d) (5)) for a period of at least one year.

(5) An alien whose deportation is being withheld under Section 243(h) of the INA (8 U.S.C. § 1253 (h)) (as in effect immediately before the effective date of Section 307 of Division C of Public Law 104-208) or Section 241 (b) (3) of such Act (8 U.S.C. Section 1251 (b) (3)) (as amended by Section 305 (a) of Division C of Public Law 104-208).

(6) An alien who is granted conditional entry pursuant to Section 203(a) (7) of the INA as in effect prior to April 1, 1980. (8 U.S.C. Section 1153 (a) (7)) (See editorial note under 8 U.S.C. Section 1101, "Effective Date of 1980 Amendment.")

(7) An alien who is a Cuban or Haitian entrant (as defined in Section 501 (e) of the Refugee Education Assistance Act of 1980 (8 U.S.C. Section 1522 note)).

(8) An alien who meets all of the conditions of subparagraphs (A), (B), (C), and (D) below:

(A) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to or acquiesced in, such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape,

molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Emergency Medical Services Authority. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien to become self-sufficient following separation from the abuser.
2. The benefits are needed to enable the alien to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien from the abuser.
3. The benefits are needed due to a loss of financial support resulting from the alien's separation from the abuser.
4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien to lose his or her job or to earn less or to require the alien to leave his or her job for safety reasons.
5. The benefits are needed because the alien requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.
6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).
7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.
8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien and/or to care for any resulting children.
9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien had when living with the abuser.

(C) The alien has a petition that has been approved or has a petition pending which sets forth a prima facie case for:

1. Status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a) (1) (A) of the INA (8 U.S.C. § 1154 (a) (1) (A) (ii), (iii) or (iv)),
2. Classification pursuant to clause (ii) or (iii) of Section 204(a) (1) (B) of the INA (8 U.S.C. § 1154(a) (1) (B) (ii) or (iii)),
3. Suspension of deportation and adjustment of status pursuant to section 214 (a) (3) of the INA (8 U.S.C. sec. 1254) as in effect prior to April 1, 1997 [Pub.L. 104-208, sec. 501 (effective September 30, 1996, pursuant to sec. 591); Pub.L. 104-208, sec. 304 (effective April 1, 1997, pursuant to sec. 309); Pub.L. 105-33, sec. 5581 (effective pursuant to sec. 5582)] (incorrectly codified as "cancellation of removal under section 240A of such Act [8 U.S.C. § 1229b (as in effect prior to April 1, 1997)),
4. Status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a) (1) (A) of the INA (8 U.S.C. § 1154(a) (1) (A) (i)) or classification pursuant to clause (i) of Section 204(a) (1) (B) of the INA (8 U.S.C. § 1154(a) (1) (B) (i)), or

5. Cancellation of removal pursuant to Section 240A (b) (2) of the INA (8 U.S.C. Section 1229b (b) (2)).

(D) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(9) An alien who meets all of the conditions of subparagraphs (A), (B), (C), (D) and (E) below:

(A) The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) The alien did not actively participate in such battery or cruelty.

(C) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Emergency Medical Services Authority. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien's child to become self-sufficient following separation from the abuser.
2. The benefits are needed to enable the alien's child to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien's child from the abuser.
3. The benefits are needed due to a loss of financial support resulting from the alien's child's separation from the abuser.
4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien's child to lose his or her job or to earn less or to require the alien's child to leave his or her job for safety reasons.
5. The benefits are needed because the alien's child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.
6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's child's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).
7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.
8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien's child and/or to care for any resulting children.
9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien's child had when living with the abuser.

(D) The alien child meets the requirements of subsection (c) (8) (C) above.

(E) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(10) An alien child who meets all of the conditions of subparagraphs (A), (B), and (C) below:

(A) The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Emergency Medical Services Authority. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien child's parent to become self-sufficient following separation from the abuser.

2. The benefits are needed to enable the alien child's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien child's parent from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien child's parent's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien child's parent to lose his or her job or to earn less or to require the alien child's parent to leave his or her job for safety reasons.

5. The benefits are needed because the alien child's parent requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien child's parent's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien child's parent and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien child's parent had when living with the abuser.

(C) The alien child meets the requirements of subsection (c) (8) (C) above.

(d) For purposes of this section, "nonimmigrant" is defined the same as in Section 101 (a) (15) of the INA (8 U.S.C. Section 1101 (a) (15)).

(e) For purposes of establishing eligibility for paramedic licensure as described in Section 1797.172 of Division 2.5 of the Health and Safety Code, the following requirements must be met:

(1) The applicant must declare himself or herself to be a citizen of the United States or a qualified alien under subsection (c), a nonimmigrant alien under subsection (d), or an alien paroled into the United States for less than one year under Section 212(d) (5) of the INA (8 U.S.C. § 1182(d) (5)). The applicant shall declare that status through use of the “Statement of Citizenship, Alienage, and Immigration Status for State Public Benefits,” Form IS-01 (4/98, incorporated by reference).

(2) The applicant must present documents of a type acceptable to the Immigration and Naturalization Service (INS) which serve as a reasonable evidence of the applicant’s declared status. A fee receipt from the INS for replacement of a lost, stolen, or unreadable INS document is reasonable evidence of the alien’s declared status.

(3) The applicant must complete and sign Form IS-01.

(4) Where the documents presented do not on their face appear to be genuine or to relate to the individual presenting them, the government entity that originally issued the documents shall be contacted for verification. With regard to naturalized citizens and derivative citizens presenting certificates of citizenship and aliens, the INS is the appropriate government entity to contact for verification. The Emergency Medical Services Authority shall request verification from the INS by filing INS Form G-845 with copies of the pertinent documents provided by the applicant with the local INS office. If the applicant has lost his or her original documents or presents expired documents or is unable to present any documentation evidencing his or her immigration status, the applicant shall be referred to the local INS office to obtain documentation.

(5) The type of documentation referred to the INS for verification pursuant to INS Form G-845 shall include the following:

(A) The document presented indicates immigration status but does not include an alien registration or alien admission number.

(B) The document is suspected to be counterfeit or to have been altered.

(C) The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series.

(D) The document is one of the following: an INS Form I-181b notification letter issued in connection with an INS Form I-181 Memorandum of Creation of Record of Permanent Residence, an Arrival-Departure Record (INS Form I-94) or a foreign passport stamped “PROCESSED FOR I-551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE” that INS issued more than one year before the date of application for paramedic licensure.

(6) If the INS advises that the applicant has citizenship status or immigration status which makes him or her a qualified alien, a nonimmigrant or alien paroled for less than one year under section 212 (d) (5) of the INA, the INS verification shall be accepted. If the INS advises that it cannot verify that the applicant has citizenship status or an immigration status that makes him or her a qualified alien, a nonimmigrant or an alien paroled for less than one year under section 212 (d) (5) of the INA, benefits shall be denied and the applicant notified pursuant to the paramedic licensure program’s regular procedures of his or her rights to appeal the denial of benefits.

(f) Pursuant to Section 434 of the PRWORA (8 U.S.C. § 1644), where the Emergency Medical Services Authority reasonably believes that an alien is unlawfully in the state based on the failure of the alien to provide reasonable evidence of the alien's declared status, after an opportunity to do so, said alien shall be reported to the Immigration and Naturalization Service.

(g) Provided that the applicant has completed and signed all licensure applications pursuant to Section (e)(1) under penalty of perjury, and has met all state eligibility requirements, eligibility for paramedic licensure shall not be delayed, denied, reduced or terminated while the status of the applicant is verified.

(h) Any applicant who is eligible for paramedic licensure, and whose license is denied or revoked pursuant to subsections (b) and (e), is entitled to a hearing, pursuant to CCR Title 22, Division 9, Chapter 4, Section 100175, and Division 2.5 of the Health and Safety Code, Chapter 7, Sections 1798.204 and 1798.207.

NOTE: Authority Cited: Health and Safety Code, Division 2.5, Sections 1797.107, 1797.172, 1798.204, and 1798.207.

Reference: Health and Safety Code, Division 2.5, Sections 1798.204 and 1798.207; U.S.C. §§ 1621, 1641, and 1642.